

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMPLAINT

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BABAK NEHMADI,

Plaintiff requests a trial by jury.

Plaintiffs,

-against-

THE CITY OF NEW YORK and NEW YORK
CITY POLICE DEPARTMENT, POLICE
COMMISSIONER RAYMOND KELLY and POLICE
OFFICERS "JOHN DOES 1-12."

Defendants.
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Plaintiff, complaining of the defendants, by his attorney, respectfully shows to this Court and alleges:

JURISDICTION:

- 1) That Jurisdiction is founded upon the existence of a Federal Question.
- 2) That this is an action to redress the deprivation under color of statute, ordinance, regulation, custom or usage of a right, privilege, and immunity secured to plaintiff by the First and Fourteenth Amendments to the Constitution of the United States (42 U.S.C. sec.1983) and arising under the law and statutes of the State of New York.
- 3) Jurisdiction is founded upon U.S.C. secs.1331 and 1334(3) and (4), this being an action authorized by law to redress the deprivation under color of law, statute, ordinance, regulation, custom and usage of a right, privilege, and immunity secured to a plaintiff by the First and Fourteenth Amendments to the Constitution of the United States.
- 4) The matter in controversy exceeds, exclusive of interest and costs, the sum or value of THREE MILLION (\$10,000,000.00) DOLLARS.

PARTIES:

- 5) That the plaintiff is a Citizen of the United States and resident of the County of Queens, City of New York, State of New York
- 6) That the defendant, The City Of New York, was and still is a municipal corporation duly organized and existing under the laws of the State of New York.

- 7) Upon information and belief, that at all times hereinafter mentioned, the defendant, The City of New York, its agents, servants, and employees operated, maintained and controlled the Police Department of The City of New York, a Department thereof, including all the police personnel thereof.
- 8) Upon information and belief, that at all times hereinafter mentioned, and prior, on and subsequent and continuing, on or about January 2, 2014 and January 13, 2014, Police Officers "John Does 1-12", were employed by The City of New York, as police officers, detectives, sergeants, lieutenants, captains, and/or other ranks.
- 9) Upon information and belief, that at all times hereinafter mentioned, defendant, Raymond Kelly, Commissioner of the Police Department of the City of New York was acting as Police Commissioner of The City of New York, and an employee of the City of New York.
- 10) Upon information and belief, that at all times hereinafter mentioned, the defendant, Raymond Kelly, Commissioner of the Police Department of The City of New York, was hired by The City of New York as Police Commissioner of the Police Department of The City of New York and designated as head of the police officers for The City of New York.
- 11) This action arises under the United States Constitution, particularly under provisions of the Fourth and Fourteenth Amendments to the Constitution of the United States, and under federal law, particularly the Civil Rights Act, Title 42 of the United States Code, Section 1983 and the rights under the Constitution and laws of the State of New York.
- 12) Each and all of the acts of the defendants alleged herein were done by the defendants, their agents, servants and employees, and each of them, not as individuals, but under the color and pretense of the statutes, ordinances, regulations, customs and usages of the State of New York, the City of New York and the County of New York, and under the authority of their office as police officers of said state, city and county.

PENDANT STATE CLAIMS

- 13) That Notice of the Plaintiff's Claim and Notice of Intention To Sue for Damages for improper and false arrest and imprisonment, violation of civil rights, negligence in training and supervising, the nature of the claim and the date of, the time when, the place where and the manner in which the claim arose was duly served upon the Comptroller of defendant, The City of New York, on or about the March 26, 2014.
- 14) That more than 30 days have elapsed since the Notice of Claim and Intention To Sue has been served upon the defendants and the said defendants have neglected or refused to make any adjustments or payment thereof.
- 15) That this action is commenced within one year and 90 days after the causes of action arose.

AS AND FOR A FIRST CAUSE(S) OF ACTION ON BEHALF OF PLAINTIFFS

- 16) That plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "15" with the same force and effect as if more fully set forth herein.
- 17) That on or about January 2, 2014 and January 13, 2014, and onward Police Officers "John Does 1-12" did improperly arrest, detain, and imprison the plaintiffs at or about 75 Maiden Lane, Suite 311, NY, NY.
- 18) That the said arrest and imprisonment was caused by the defendants, their agents, servants and employees, without any warrant or other legal process and without authority of the law and without any reasonable cause or belief that the plaintiffs was in fact guilty of such crimes.
- 19) That the defendants, their agents, servants and employees acting within the scope of their employment, detained and imprisoned the plaintiff even though the defendants, their agents, servants and employees, had the opportunity to know or should have known, that the matters hereinbefore alleged, wrongfully, unlawfully and without a sufficient charge having been made against the plaintiffs, directed that the plaintiff be searched and placed in confinement at said location.
- 20) That the plaintiff was wholly innocent of said criminal charges and did not contribute in any way to the conduct of the defendants, their agents, servants and employees and was forced by the defendants to submit to the aforesaid arrest and imprisonment thereto entirely against his will.
- 21) That as a result of the aforesaid accusations made by the defendants, their agents, servants and employees acting under their employment and within the scope of their authority, made falsely, publicly, wickedly and maliciously, the plaintiff was compelled to appear before a Judge of the Criminal Court of the City of New York, and to be, upon information and belief, arraigned.
- 22) That the defendants, their agents, servants and employees, as set forth aforesaid on the aforementioned date, time and place, intended to confine the plaintiffs; in that the plaintiff was conscious of the confinement; plaintiff did not consent to the confinement; and that the confinement was not otherwise privileged.
- 23) That by reason of the false arrest, imprisonment and detention of the plaintiff, plaintiff was subjected to great indignities, humiliation and ridicule in being so detained, charged and prosecuted with various crimes, and greatly injured in his credit and circumstances and was then and there prevented and hindered from performing and transacting his necessary affairs and business, and he was caused to suffer much pain in both mind and body, the loss of employment opportunities.

- 24) That by reason of the foregoing, plaintiff has been damaged in the sum of TEN MILLION (10,000,000.00) DOLLARS.

**AS AND FOR A SECOND CAUSE(S) OF ACTION ON
BEHALF OF PLAINTIFFS**

- 25) Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs marked "1" through "24" with the same force and effect as if more fully set forth herein.
- 26) That on or about the above-referenced time period on that day, while plaintiff was lawfully within the above-referenced premises, the defendants, their agents, servants and employees, caused plaintiffs to be, and did, without just cause or provocation and with great force seized and laid hold of plaintiff, and damaged the property thereof.
- 27) That by reason of the aforementioned, plaintiff s has been damaged in the sum of TEN MILLION (\$10,000,000.00) DOLLARS.

AS AND FOR A THIRD CAUSE(S) OF ACTION ON BEHALF OF PLAINTIFFS

- 28) Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "27" with the same force and effect as if more fully set forth herein.
- 29) That the defendants, their agents, servants and employees negligently, carelessly and recklessly failed to properly train and supervise their employees and affiliates.
- 30) That the aforesaid occurrence transpired as a result of said negligence of the defendants, without any negligence on the part of plaintiff.
- 31) That by reason of the aforesaid, plaintiff suffered the above-referenced damages.
- 32) That by reason of the aforesaid, plaintiff s has been damaged in the sum of TEN MILLION (\$10,000,000.00) DOLLARS.

**AS AND FOR A FOURTH CAUSE(S) OF ACTION ON
BEHALF OF PLAINTIFFS**

- 33) Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "32" with the same force and effect as if more fully set forth herein.
- 34) That the defendants, their agents, servants and employees were negligent in their performance of their duties, including in their police duties and administrative duties.

- 35) That the aforesaid occurrence transpired as a result of said negligence of the defendants, without any negligence on behalf of the plaintiff.
- 36) That by reason of the aforesaid, plaintiff suffered the above-referenced damages.
- 37) That by reason of the aforesaid, plaintiffs has been damaged in the sum of TEN MILLION (\$10,000,000.00) DOLLARS.

AS AND FOR A FIFTH CAUSE(S) OF ACTION ON BEHALF OF PLAINTIFFS

- 38) Plaintiffs repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "37" with the same force and effect as if more fully set forth herein.
- 39) That on or about the aforesaid time period and thereafter, the defendants, their agents, servants and employees caused plaintiff to be, and did, maliciously prosecuted plaintiff without any rights or grounds therefore.
- 40) That the plaintiff was and is wholly innocent, and was forced by the defendants to submit to court proceedings.
- 41) That the defendant, their agents, servants and employees acting in the performance of their employment and within the scope of their authority, testified falsely and withheld vital information before the New York County District Attorney's Office and/or a Judge of the Criminal Court of the City of New York.
- 42) That upon examination, the said charges were falsely and maliciously made. That the New York County District Attorney's Office and/or a Judge of the Criminal Court of the City of New York, declined to prosecute after investigation and/or dismissed all charges against plaintiffs, respectively, arising from the above-return events.
- 43) That the said prosecution and criminal charges and hearings were instituted and procured by the defendants, their agents, servants and employees in this action unlawfully and maliciously and without any reasonable or probable cause whatsoever therefor. That the commencement and/or continuation of the criminal proceedings by the defendants against the plaintiffs was without probable cause, with actual malice and was terminated in favor of the plaintiffs.
- 44) That by reason of the aforesaid unlawful and malicious prosecution, the plaintiffs was deprived of his liberty, was subjected to great indignity, humiliation, pain and great distress of mind and body and was held up to scorn and ridicule, was injured in his character and reputation, was injured in his reputation in his community and otherwise damaged.
- 45) That by reason of the aforesaid, plaintiffs have been damaged in the sum of TEN MILLION (\$10,000,000.00) DOLLARS.

AS AND FOR A SIXTH CAUSE(S) OF ACTION ON BEHALF OF PLAINTIFFS

- 46) Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "45" with the same force and effect as if more fully set forth herein.
- 47) That the defendants, their agents, servants and employees falsely arrested and imprisoned the plaintiffs, and caused same, and deprived plaintiff of his rights and liberties as set forth in the Constitution of the United States and of the State of New York, handcuffed him and threatened him with the possible use of firearms and the use of physical force, falsely imprisoned plaintiff without his consent without privileged, arrested and imprisoned plaintiffs without probable cause, falsely charges plaintiff with crimes known to be false, assaulted and battered plaintiff, failed to properly supervise, train, retain, hire their agents, servants and employees, despite the foregoing causing a clear and present danger to the citizens of the City and State of New York, prosecuting plaintiff without probable cause with eventual termination favorable to plaintiffs, not as individuals, but under color and pretense of the statutes, ordinances, regulations, customs and usages of the State of New York, the City of New York, and under authority of their office as police officers for said entity.
- 48) Plaintiff did not commit any illegal act, either or at the time he was falsely arrested and imprisoned, maliciously prosecuted and deprived of his constitutional rights as set forth in the Constitution of the United States, particularly 42 U.S.C. Sec.1983 and the Constitution of the State of New York.
- 49) The defendants, and other persons unknown to plaintiff, acting under color of law, have subjected plaintiffs and other persons to a pattern of conduct consisting of illegal harassment, assault and battery, false imprisonment and arrests and malicious prosecution of persons, in the City and State of New York, in denial of rights, privileges and immunities guaranteed plaintiff and other citizens by the Constitutions of the United States.
- 50) This systematic pattern of conduct consists of a large number of individual acts of violence, intimidation, false arrest and false imprisonment and malicious prosecution upon plaintiffs and other citizens by members of the police department of the defendant, City Of New York, acting in concert with persons unknown to plaintiff and under color of law, are illegal, improper and unrelated to proper activities of police officers.
- 51) Although the defendants, knew or should have known, of the aforesaid pattern of conduct, the defendant, The City of New York, failed to take any steps to redress or halt same.

- 52) The rights of the plaintiffs under the Constitutions of the United States and State of New York have been violated, including those arising from the Fourth, Sixth and Fourteenth Amendments to the Constitution of the United States of America.
- 53) That by reason of the aforesaid, plaintiffs has been damaged and requests compensatory damages of TEN MILLION (\$10,000,000.00) DOLLARS, and punitive damages of TEN MILLION (\$10,000,000.00) DOLLARS.

**AS AND FOR A SEVENTH CAUSE(S) OF ACTION ON
BEHALF OF PLAINTIFFS**

- 54) Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "53" with the same force and effect as if more fully set forth herein.
- 55) That by reason of the aforesaid, plaintiffs demands punitive damages in the amount of TEN MILLION (\$10,000,000.00) DOLLARS.

**AS AND FOR A EIGHTH CAUSE(S) OF ACTION ON
BEHALF OF PLAINTIFFS**

- 56) Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "55" with the same force and effect as if more fully set forth herein.
- 57) That Plaintiff was subjected to all of the foregoing because of his national origin, race, Iranian, and religion, perceived to be Muslim, thereby in violation of his Federal, State and City constitutional rights.
- 58) That by reason of the aforesaid, plaintiffs demands punitive damages in the amount of TEN MILLION (\$10,000,000.00) DOLLARS.

WHEREFORE, the plaintiff demands judgment against the defendants in the sum of TEN MILLION DOLLARS on each of the causes of action; TEN MILLION DOLLARS in compensatory damages and TEN MILLION DOLLARS in punitive damages.

Dated: New York, New York
January 16, 2015

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BY: 
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